THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 10435 OF 2005

7th December,2005

Between:

Velpula Ramulu and Others …Petitioners

A N D

1. The Chief Commissioner of Land Administration
Government of Andhra Pradesh, Office at
Opp.Hotel Annapurna, Nampally Road, Hyderabad
and Others

Respondents

THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 10435 OF 2005

O R D E R :

1. This writ petition has been filed by the petitioners who are 33 in number assailing the order passed by the Chief Commissioner of Land Administration-1st respondent in CCLA's Ref. No. N A2/79/2004, dated 14-3-2005.

2. It is the case of the petitioners that the lands in Survey Nos. 605,606,607,608, 611

to 613 admeasuring Ac.33-04 guntas devolved upon them from their forefathers. The said lands have been classified as service Inam and recorded as such in Kasra pahani, Setwar and Vasool Bhaki. They applied for Occupancy Right Certificate on 26-12-1996 under section 4 of the A.P. (T.A.) Abolition of Inams Act, 1955. The Revenue Divisional Officer-Ranga Reddy-East Division-3rd respondent after due enquiry granted 'Occupancy Right Certificate' to the petitioners to an extent of Ac. 16-21 guntas vide order No. J/5798/1996 dated 28-8-1997. They filed another application before the 3rd respondent for grant of 'Occupancy Right Certificate' to the remaining extent. While so, Najeebuddin Ghalib-5th respondent claiming to be the General Power of Attorney holder of the un-official respondents who claimed to be the legal heirs of late Nawab Ghalib Jung filed a representation before the Chief Commissioner of Land Administration-1st respondent for release of the property allegedly known as Chota Bagh admeasuring Ac. 61-26 guntas comprising S.Nos. 478, 488-A, 488-AA, 604 to 610, 611-A and 611-AA, 612 to 614. The unofficial respondents claimed the property to be the property taken over by the "Court of Wards". The petitioners, on coming to know the said representation, filed objection petition on 1-10-2004. The 1st respondent, according to the petitioners, without considering the objections passed the proceedings impugned in the writ petitions releasing the property in favour of the legal heirs of late Ghalib Jung Laiqud-Dowla Bahadur. The operative portion of the proceeding reads as follows:

> "*On verification of the above documents it is found that, the property as mentioned above belongs to Ghalib Jung Laiqud-Dowla was under the Court of Wards as per Firmans of HEH the Nizam.*
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> *Keeping in view of the documentary evidence, order of the then Nazim Court of Wards issued in his notification No. 2290, dated 1-5-50, legal status and in view of the assurances given by the applicant, in exercise of the powers vested with the Chief Commissioner of Land Administration, A.P. Hyderabad under Section (53) of the A.P.(T.A.) Court of Ward Act, 1350 Fasli the Chief Commisisoner of Land Administration is pleased to release the properties i.e., One Maqta Kohe Shareef, known as Moula Ali now under Rampally village, Keesara Mandal, known as CHOTA BAGH which was mentioned in the list of properties of Ghalib-ul-Mulk at List No.1 item NO.9 as claimed under Survey Numbers 478, 488/A, 488/AA, 604,606,607,608,610,611/A, 611/AA, 612, 613 and 614 total admeasuring Ac. 61-26 guntas, Ranga Reddy*

District, A.P. in favour of all legal heirs of Ghalib Jung in O.S.No.469 of 1983 (Old O.S.No.412 of 80) based on the then Civil Court decree at that, time known as Darul Khaza Balda marked as exhibit XI, therein from the Superintendence of Court of Wards. It is for the legal heirs to claim their respective shares and interest in the property based on their personal Law of Succession from an appropriate Court through a decree/order in the matter.

One Smt. Afsar Begum, w/o: Late Aliuddin Ghalib and Smt. Gafoorunissa Begum d/o: late Aliuddin Ghalib dated 17-02-2005, have filed a objection petition before the Special Commissioner that, Sri Mohd. Saleem claiming to be the son of late Aliuddin Ghalib is not correct and a matter is pending before the High Court, Accordingly, the notice was issued to the objection petitioner on 28-02-2005 and 5-3-2005, to file the documentary evidence regarding their objections. But, the objection petitioners have not filed any documentary evidence before the Special Commissioner. As seen from the CMP NO.6268 of 2000, order of the High Court in CCCA NO.59/95, Shri Md. Saleem has been included as one of the legal heirs. Hence objection petition has no merit and is not relevant to the matter in question before this Court of Wards, which is concerned with the limited question of release of property in favour of the legal heirs. It is for the legal heirs to determine their share and interest in the property land on their personal law of succession through an appropriate decree/order of the competent Court of law having jurisdiction in the matter".

3. Counter affidavits have been filed by the respondents. Later, reply affidavit has been filed by the petitioners.

4. Heard learned counsel for the petitioners and learned counsel appearing for the respondents.

5. Learned counsel for the petitioners challenges the impugned order in the writ petition on the principal ground of violation of the principles of natural justice. He submits that objection petition has been filed by the petitioners before the Chief Commissioner of Land Administration and the order impugned in the writ petition came to be passed without considering their objections. Various other contentions have been raised by referring the written statement filed by the Revenue Commissioner Court of Wards and the findings recorded in O.S.No. 69 of 1983. He placed reliance on the following decisions :

Whirlpoor Corporation vs. Registrar of Trade Marks, Rashid Ahmed V. the Municipal Board, Kairana, Dr.J.J.Merchant Vs. Shrimath Chaturvedi, Guruvayoor Devaswom Managing Committee Vs. C.K.Rajan, Harbanlal Sahnia Vs. Indian Oil Corporation Ltd., B.Ravinder Reddy Vs. District Collector, Hyderabad, Basant Singh V. Janaki Singh, and State of H.P.Vs. Ganesh Wood Products. The contentions are not required to be dealt with elaborately in view of the order proposed to be passed.

6. A fact remains that the petitioners submitted their objection petition to the Chief Commissioner of Land Administration-1st respondent pending enquiry on the representation of un-official respondents for release of the properties. No opportunity was given by the 1st respondent to the petitioners to participate in the enquiry on the representation submitted by the unofficial respondents for release of the property. The order impugned in the writ petition came to be questioned in another Writ Petition being W.P.No.5781 of 2004. The said writ petition came to be disposed of on 26-7-2005. The relevant portion of the orders reads as follows:

> "*It is no more in dispute that the impugned order came to be passed by the Special Chief Secretary and Chief Commissioner of Land Administration, A.P. Hyderabad under Section 53 of the Act and against the said order an appeal has been provided under Section 69 of the Act. Therefore, the petitioners shall exhaust the statutory remedy before invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.*
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> *At this stage, the learned counsel for the petitioners requested continuance of the interim order dated 21-03-2005 passed by this Court in W.P.M.P.No.7631 of 2005 so as to enable the petitioners to work out the remedies available under the Act.*

7. Sri H.Venugopal appearing for the respondents No.7, 8, 9, 12,18,19,20,21 and 22 reports that the appeal has been filed in pursuance of the orders in the writ petition and the said appeal is stated to be pending.

8. In that view of the matter, I deem it appropriate to dispose of the writ petition giving liberty to the petitioners either to file independent appeal against the order impugned in the writ petition or get themselves implead as party respondents in the appeal already filed by Afsar Begum and Gouseunnisa Begum, within fifteen days from

today. Till such course is adopted by the writ petitioners, the interim orders dated 26-4-2005 passed in WPMP No. 13500 of 2005 in W.P.No. 10435 of 2005 shall continue. No order as to costs.

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Justice B.Seshasayana Reddy

7th December, 2005

C.C. in three days

B/o

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THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

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